

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Advanced Methods to Target and Eliminate	)	CG Docket No. 17-59
Unlawful Robocalls	)	
	)	
Call Authentication Trust Anchor	)	WC Docket No. 17-97
	)	

**COMMENTS OF T-MOBILE USA, INC.**

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**COMMENTS OF T-MOBILE USA, INC.**

T-Mobile USA, Inc. (“T-Mobile”)<sup>1/</sup> submits these comments in response to the Commission’s Fifth Further Notice of Proposed Rule Making and Fourth Further Notice of Proposed Rulemaking in the above-captioned proceedings intended to further protect consumers from illegal and unwanted robocalls originating overseas.<sup>2/</sup> While T-Mobile supports the Commission’s goals, imposing additional call handling obligations on providers already engaged in preventing unwanted and illegal calls from reaching customers is unnecessary.

**I. INTRODUCTION AND SUMMARY**

As the first wireless provider to implement STIR/SHAKEN on its network, T-Mobile has been<sup>3/</sup> and remains the industry leader in preventing illegal and unwanted robocalls as well as

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<sup>1/</sup> T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

<sup>2/</sup> See *Advanced Methods to Target and Eliminate Unlawful Robocalls; Call Authentication Trust Anchor*, Fifth Further Notice of Proposed Rulemaking; Fourth Further Notice of Proposed Rulemaking, CG Docket No. 17-59; WC Docket No. 17-97, FCC 21-105 (rel. Oct. 1, 2021) (collectively, “*Further Notice*”).

<sup>3/</sup> See, e.g., Press Release, T-Mobile, T-Mobile Has Blocked Over a Billion Scam Calls, and Now Industry-Leading Tech Keeps Customers Even Safer (Nov. 8, 2018), <https://www.t-mobile.com/news/press/t-mobile-fights-scam-calls>; Press Release, T-Mobile, T-Mobile First to Launch Caller Verification to Help Protect Customers From Scams (Jan. 10, 2019), <https://www.t-mobile.com/news/press/caller-verified-note9>; Press Release, T-Mobile, T-Mobile and Comcast FIRST to Give Customers New Anti-Robocalling Feature (Apr. 17, 2019), <https://www.t-mobile.com/news/press/inter-carrier-stir-shaken-launch>; Press Release, T-Mobile, T-Mobile Completes

spoofed calls from reaching consumers.<sup>4/</sup> It handles calls consistent with the Commission’s STIR/SHAKEN obligations, does not accept traffic from providers not registered in the Robocall Mitigation Database (“RMD”), participates in the meetings and efforts of the USTelecom-led Industry Traceback Group, and otherwise complies with all Commission call handling requirements for voice service providers. The *Further Notice* proposals would appropriately impose most of these same obligations on gateway providers in order to better protect consumers from harmful robocalls. But the Commission would go further, imposing additional obligations on gateway providers. However, there is no evidence that these additional obligations would provide more consumer protection in the case of providers, like T-Mobile, that already comply with robocall and spoofing prevention rules as voice service providers. Accordingly, the Commission should impose obligations on gateway providers that already apply to other carriers but determine, on a case-by-case basis, whether additional carrier-specific measures are required for particular gateway providers. Further, the Commission should not require additional information for the RMD, or adopt new rules related to providers’ public safety obligations.

## **II. THE COMMISSION NEED NOT IMPOSE NEW OBLIGATIONS ON ALL GATEWAY PROVIDERS**

The Commission has already imposed a number of obligations on voice service providers aimed at preventing unwanted or illegal calls.<sup>5/</sup> It has also provided carriers with tools that they *may* use to block calls.<sup>6/</sup> As the Commission notes, gateway providers, as intermediate providers,

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STIR/SHAKEN with ALL Major Carriers to Help Protect Customers from Scams and Spam (Mar. 25, 2021), <https://www.t-mobile.com/news/network/stir-shaken-all-networks>.

<sup>4/</sup> Press Release, T-Mobile, T-Mobile Calls Are 100% STIR/SHAKEN Compliant (June 30, 2021), <https://www.t-mobile.com/news/press/t-mobile-calls-are-100-stir-shaken-compliant>.

<sup>5/</sup> See *Further Notice* ¶¶ 10, 13-16.

<sup>6/</sup> See *id.* ¶¶ 18-21.

are already subject to *some* of these obligations and *may* take advantage of some of those tools.<sup>7/</sup> The *Further Notice* would ensure that gateway providers, as a distinct category of entities, are subject to call handling obligations to which they are not subject today. T-Mobile agrees that gateway providers should be required to comply with the *same* call handling obligations currently imposed on voice service providers.<sup>8/</sup> In fact, as a terminating provider, it is valuable to T-Mobile to receive the STIR/SHAKEN information that gateway providers are currently not required to provide.<sup>9/</sup> Imposing those obligations on more providers will promote fewer spoofed calls overall. As the Commission notes, even with C-level attestation, authenticating unauthenticated calls will facilitate faster traceback and improve call analytics.<sup>10/</sup> Doing so would also have the benefit of permitting the Commission to eliminate the foreign provider prohibition that is the subject of pending petitions for reconsideration.<sup>11/</sup>

But the *Further Notice* would go further and impose additional obligations on gateway providers, some of which do not apply to voice service providers. In particular, the Commission proposes to require gateway providers to (1) block certain types of calls; (2) respond to all traceback requests within 24 hours; (3) comply with enhanced “know your customer” requirements; (4) adopt certain contractual provisions with foreign providers from which they accept calls; and (5) meet a general duty to mitigate illegal robocalls.<sup>12/</sup> Unfortunately, these

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<sup>7/</sup> *Id.* ¶ 24.

<sup>8/</sup> *See id.* ¶ 25.

<sup>9/</sup> Gateway providers are obligated to pass along authenticated caller ID information but are not required to apply STIR/SHAKEN to unauthenticated calls if they participate in traceback activities. *Further Notice* ¶¶ 39-40; *see also* 47 C.F.R. § 64.6302(b); *Second Caller ID Order* ¶ 144.

<sup>10/</sup> *Further Notice* ¶ 41.

<sup>11/</sup> *See* Petition for Partial Reconsideration of CTIA, WC Docket No. 17-97 (filed Dec. 17, 2020); *see also* Petition for Reconsideration of Voice on the Net Coalition, WC Docket No. 17-97 (filed Dec. 17, 2020).

<sup>12/</sup> *See Further Notice* ¶ 51.

obligations would also be imposed on some voice service providers as a consequence of being considered gateway providers under either of the Commission’s proposed definitions. In particular, the Commission would define a gateway provider as “the first U.S.-based intermediate provider in the call path of a foreign-originated call that transmits the call directly to another intermediate provider or terminating voice service provider in the United States.”<sup>13/</sup> The Commission alternatively asks whether a gateway provider should instead be defined as “the first U.S.-based provider in the call path for a foreign-originated call *that also terminates* that call.”<sup>14/</sup> Either definition would make T-Mobile a gateway provider. In fact, the latter proposed definition would likely cover all voice service providers that terminate foreign-initiated calls. And in T-Mobile’s case, it would also be considered a gateway provider under the Commission’s proposed definition because it provides wholesale call handling of foreign initiated calls.

That means that despite T-Mobile’s existing industry-leading efforts to prevent illegal and unwanted calls from reaching customers, it would be subject to certain additional obligations. The *Further Notice*, however, does not demonstrate that there will be any material benefit to the public from the imposition of these additional obligations on voice service providers simply because they may act as gateway providers in some cases. Moreover, the Commission’s proposals could result in some providers being forced to comply simultaneously with two sets of regulations, presenting a number of operational challenges. Indeed, as the Commission itself recognizes, under a call-by-call approach, a single provider might potentially be required to treat some calls one way – mandatory blocking for some foreign-originated calls,

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<sup>13/</sup> *Id.* ¶ 33.

<sup>14/</sup> *Id.* (emphasis added).

for example – and other calls a different way – permissive blocking of domestic calls.<sup>15/</sup> Voice service providers should only be subject to one set of obligations for similarly situated calls.

While imposing existing obligations more broadly throughout the calling ecosystem would benefit called parties and voice service providers, voice service providers who act as gateway providers should not be obligated to comply with the additional, redundant and unnecessary mitigation requirements as proposed in the *Further Notice* and discussed further below.

### *1. Mandatory Blocking*

The proposed imposition of obligations on gateway providers to block certain calls is especially problematic. In particular, there should be no requirement for voice service providers that are also gateway providers to block calls based on reasonable analytics, or at all.<sup>16/</sup> Terminating, not intermediate (gateway), providers are in the best position to make blocking determinations on a permissive basis. This is because a customer’s blocking decision (either on an opt-in or opt-out basis) should not be frustrated by blocking requirements imposed on upstream providers. And, because transparency and redress requirements already effectively apply to voice service providers,<sup>17/</sup> they may also apply to those even when acting as a gateway provider, making the imposition of new requirements unnecessary.

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<sup>15/</sup> *Further Notice* ¶ 35.

<sup>16/</sup> *See Further Notice* ¶¶ 59; 66.

<sup>17/</sup> *See Advanced Methods to Target and Eliminate Unlawful Robocalls*, Fourth Report and Order, 35 FCC Rcd 15221, ¶¶ 9, 41, n. 98 (2020) (“*Fourth Call Blocking Order*”); *see also Advanced Methods to Target and Eliminate Unlawful Robocalls*, Third Report and Order, Order on Reconsideration, and Fourth Further Notice of Proposed Rulemaking, 35 FCC Rcd 7614, ¶¶ 25-34, 52-57 (2020) (collectively “*Third Call Blocking Order*”).

The *Further Notice* also proposes to require gateway providers to block certain calls upon notification from the Commission’s Enforcement Bureau and after “prompt” investigation.<sup>18/</sup> This deviates from the Commission’s permissive approach to call blocking and should be rejected.<sup>19/</sup> In the *Fourth Call Blocking Order* the Commission only mandated that voice service providers, including gateway providers, “take steps to effectively mitigate illegal traffic” when the Commission notifies the provider of such traffic.<sup>20/</sup> The Commission should apply these soon-to-be effective mitigation rules for suspected illegal traffic<sup>21/</sup> to voice service providers acting as gateway providers in the same manner it will apply those rules to voice service providers in general but should not mandate blocking simply because those same voice service providers are acting as gateway providers for some calls. Voice service providers should not have one set of obligations when acting as a voice service provider and another while acting as a gateway provider. Moreover, while the Commission may still wish to require downstream providers to block calls from bad actor providers,<sup>22/</sup> it should give gateway providers the opportunity to thoroughly investigate before declaring a provider has failed to mitigate, as is currently the case for voice service providers.<sup>23/</sup> If, however, the Commission imposes blocking requirements on gateway providers – whether based on reasonable analytics, at Commission direction or otherwise, it should confirm that they have no liability when implementing those requirements.

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<sup>18/</sup> See *Further Notice* ¶¶ 56-57.

<sup>19/</sup> *Id.* ¶ 56.

<sup>20/</sup> See *id.* ¶ 57; see also *Fourth Call Blocking Order* ¶¶ 22-31.

<sup>21/</sup> See *id.* (the new rule would be codified as 47 C.F.R. § 64.1200(n)(2)).

<sup>22/</sup> See *id.* ¶ 60.

<sup>23/</sup> See *Fourth Call Blocking Order* ¶¶ 24-26



### *1. 24-hour Traceback Requirements*

The Commission proposes requiring gateway providers to respond fully to all traceback requests from the Commission, any other civil or criminal law enforcement, or the industry traceback consortium within 24 hours of receipt of such a request.<sup>24/</sup> But all voice service providers are already subject to traceback obligations<sup>25/</sup> that require them to “respond fully and in a timely matter to all traceback requests from the Commission, civil law enforcement, criminal law enforcement, and the industry traceback consortium.”<sup>26/</sup> Experience has shown that providers are already cooperating with these requirements, and there is no basis for imposing more stringent response obligations on voice service providers for some calls based on where the provider is in the call path.

### *2. Know-Your-Customer Requirements*

The Commission seeks to extend its “know your customer” rules to gateway providers and also proposes requiring gateway providers to confirm that foreign originators are authorized to use U.S.-based numbers when handling those calls.<sup>27/</sup> As the Commission explains, “know your customer” obligations already apply to originating providers. In T-Mobile’s case, the proposed rules would extend its current know your customer obligations to calls it does not originate. Again, imposing different obligations on voice service providers when they act as gateway providers would be burdensome, without any corresponding benefit. That is particularly true because, as the agency concedes, it may be difficult to impose these

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<sup>24/</sup> See *Further Notice* ¶¶ 52-55.

<sup>25/</sup> See 47 C.F.R. § 64.1200(n)(1); 47 C.F.R. § 64.6305(b)(2)(iii); 47 C.F.R. § 64.6302(a); see also *Call Authentication Trust Anchor*, Second Report and Order, 36 FCC Rcd 1859, ¶ 79 (2020).

<sup>26/</sup> 47 C.F.R. § 64.1200(n)(1).

<sup>27/</sup> *Further Notice* ¶ 80.

requirements on non-originating providers as they often do not have a direct relationship with the call originator and thus do not have “customers” to “know.”<sup>28/</sup> Further, it is unclear what information would allow a gateway provider to sufficiently know the customer, which may simply be an upstream intermediary and not an originating provider or caller. Consequently, although a gateway provider can have information about its “customers,” that information may have little effect on its ability to mitigate any robocalls.<sup>29/</sup> Additionally, the Commission has other tools, including blocking based on an intermediary’s failure to mitigate, that could have the same effect without imposing burdensome and unnecessary requirements on voice service providers acting as gateway providers.

### 3. *Contractual Provisions.*

The *Further Notice* proposes that gateway providers require their customers to adopt contract terms that would help mitigate robocalls, such as terms requiring validation of numbers.<sup>30/</sup> The Commission should not impose mandatory contractual obligations on voice service providers acting as gateway providers. No such obligations apply to voice service providers in general, meaning that carriers that are both voice service providers and gateway providers would be subject to different regulatory obligations related to contracts with different classes of customers. Further, the Commission has not demonstrated that imposing this requirement on gateway providers in particular would be meaningful. More broadly, imposing an obligation to include particular contract terms in carrier agreements is contrary to the Commission’s flexible approach to imposing customer-related requirements<sup>31/</sup> and mitigating

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<sup>28/</sup> See *id.* ¶ 80.

<sup>29/</sup> See *Further Notice* ¶ 84.

<sup>30/</sup> *Id.* ¶¶ 87-89.

<sup>31/</sup> See, e.g., *Protecting the Privacy of Customers of Broadband and Other Telecommunications Services*, Report and Order, 31 FCC Rcd. 13911, ¶ 123 (2016) (explaining that in adopting rules that

illegal traffic.<sup>32/</sup> While the Commission may seek to prohibit certain practices, it should not do so by imposing specific and affirmative contractual obligations on providers.

#### 4. *General Mitigation Standard*

In addition to these requirements, the Commission seeks to impose a general duty to mitigate illegal robocalls on gateway providers.<sup>33/</sup> The Commission should refrain from imposing such a duty on entities that are also voice service providers. As the Commission notes, this obligation is currently only imposed on those providers that are subject to a robocall mitigation plan<sup>34/</sup> – *i.e.*, those providers that do not apply STIR/SHAKEN. But many voice service providers – including those that act as gateway providers – are already compliant with STIR/SHAKEN protocols, and for those providers there is no basis to apply an additional duty in the absence of a specific, identified problem with their STIR/SHAKEN implementation or application. The Commission has other tools and should use them to address problems with a gateway providers’ STIR/SHAKEN implementation if they occur.

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would require meaningful notice to customers of a broadband provider’s privacy policies, the Commission was choosing to “adopt rules that require providers to disclose their privacy practices, but *decline to be prescriptive* about either the format or *specific content* of privacy policy notices in order to provide flexibility to providers and to minimize the burden of compliance levied by this requirement.” (emphasis added)); *see also id.* ¶ 165 (stating that “[w]e find that in lieu of these more prescriptive requirements, the common-sense rules we adopt above better ensure that customers receive truly informative notices without . . . unnecessary regulatory burdens on carriers”).

<sup>32/</sup> *See Fourth Call Blocking Order* ¶ 35 (explaining that providers should have flexibility in their approach to “know-your-customer” requirements because “voice service providers of all sizes should be able to impose and enforce relevant contract terms”); *see also Third Call Blocking Order* ¶ 37 n. 89 (noting that nothing in the Order affects private contractual rights a downstream provider has with its customers), ¶ 41 n. 97 (noting that the adopted rule does not require contractual changes between providers and customers);

<sup>33/</sup> *Further Notice* ¶ 91.

<sup>34/</sup> *Id.* ¶¶ 91-92.

### **III. THE COMMISSION SHOULD NOT IMPOSE ADDITIONAL DATA COLLECTION REQUIREMENTS FOR THE RMD**

While it may be reasonable for the Commission to require gateway providers who are not already required to register in the RMD to do so, there is no reason to require those entities that are already registered in the RMD to add more data. The Commission itself recognizes the flaws in its proposal.<sup>35/</sup> Specifically, because the deadline has passed, registrants would be required to revise the information they have already submitted.<sup>36/</sup> But this information, whatever its utility at the outset of the mandatory blocking period, is likely less useful now. Without a strong justification for imposing additional data collection burdens, which it does not articulate, the Commission should decline to adopt additional information collection obligations.

### **IV. THERE IS NO REASON TO ADOPT NEW PUBLIC SAFETY RELATED RULES**

The *Further Notice* states the Commission’s expectations regarding the handling of emergency calls, even from providers not registered in the RMD.<sup>37/</sup> The Commission clarifies that even if a voice service provider is not listed in the RMD, other providers must make all reasonable efforts to avoid blocking calls from Public Safety Answering Points (“PSAPs”) from that non-listed provider; that under no circumstances should calls to 9-1-1 be blocked; and that all providers must make all reasonable effort to avoid blocking outbound calls from PSAPs and other emergency numbers.<sup>38/</sup> The requirement that providers “make all reasonable efforts”<sup>39/</sup> will allow carriers to adapt to changing technologies. In contrast, a rule that attempts to specify what

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<sup>35/</sup> *Further Notice* ¶ 100.

<sup>36/</sup> *Id.*

<sup>37/</sup> *Id.* ¶ 101.

<sup>38/</sup> *Id.*

<sup>39/</sup> *Id.*

“all reasonable efforts” encompass<sup>40/</sup> may unnecessarily limit providers to a particular approach. Accordingly, the Commission should not adopt rules that would impose specific definitions of “all reasonable efforts,” which would limit providers’ regulatory flexibility.

## V. CONCLUSION

T-Mobile supports the Commission’s ongoing efforts to protect American consumers from harmful and unwanted robocalls and spoofing. Nonetheless, it should refrain from imposing new and potentially unnecessary requirements on voice service providers that are also gateway providers. These proposed obligations would be redundant and create unnecessary compliance burdens. Instead of imposing new obligations on existing providers, the Commission should impose any obligations not already applicable to voice service providers on gateway providers only on a case-by-case basis. Finally, the Commission should refrain from requiring additional RMD information collection or adopting any new public safety blocking rules that would force providers into a particular approach to handling emergency services calls.

Respectfully submitted,

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<sup>40/</sup> *Id.* ¶ 102.